

EXHIBIT B

REPORTER'S RECORD
VOLUME 1 OF 1 VOLUME
TRIAL COURT CAUSE NO. 2020-67824

JANE DOE,) IN THE DISTRICT COURT OF
)
)
Plaintiff)
)
VS) HARRIS COUNTY
)
)
)
UBER TECHNOLOGIES, INC.,)
)
)
Defendant) THE 125TH JUDICIAL DISTRICT

REPORTER'S RECORD

On the 21st day of August, 2023, the following
proceedings came on to be heard in the above-entitled and
numbered cause before the Honorable Kyle Carter, Judge
presiding, held in Houston, Harris County, Texas:

Proceedings reported by machine shorthand.

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I N D E X

AUGUST 21, 2023

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EXHIBITS

No exhibits offered or admitted

1 THE COURT: At this time the Court calls Cause
2 No. 2020-67824, Jane Doe versus Uber Technologies, Inc.
3 Counsel, please make your appearances for the record.

4 MR. EVANS: Ross Evans on behalf of plaintiff,
5 Jane Doe.

6 MS. WESTER: Whitney Wester and Robert Ford on
7 behalf of Uber Technologies.

8 THE COURT: Thank you very much. The parties
9 have previously stated that they didn't need a record. We had
10 a brief off the record conversation about what we're going to
11 talk about today. We're here today because the parties had
12 asked for a status conference so that the court could rule on
13 some documents that were the subject for the parties privilege
14 log contemporaneous or actually, recently the Texas Supreme
15 Court has issued a ruling on the mandamus that was out of this
16 court that dealt with some other issues, discoverability of
17 certain documents and objections that were made as to those
18 particular documents. And the Supreme Court has made a ruling,
19 they denied the parties mandamus request and so what I want to
20 do is follow-up on those documents bearing that ruling would
21 have on the issues that were presented today. The discovery
22 will be born out by the file and the court's record in this
23 case has been something that we've been working on for quite
24 some time in this matter. I believe one of the last hearings
25 that we had, if not, the last hearing that we had, we had

1 discussed issues that the parties were trying to work through.
2 We took up the matter of certain documents that the parties
3 felt would be, expressly part of the mandamus, would be
4 subsumed by the issues that were being raised at the Texas
5 Supreme Court and therefore documents were separated and
6 withheld on the basis of the pending ruling before the Supreme
7 Court. Now, that the Court is ruled, I will follow up and ask
8 the parties what the status of those documents were. The
9 parties represented to me that all documents that were the
10 subject of the mandamus have been provided and that all the
11 documents that were withheld subsequently, based on the issues
12 raised in the mandamus, have been provided as well and that the
13 parties have undertaken an effort to streamline today's
14 hearing. They are only looking for the court to rule on two
15 categories of documents, those that are protected by
16 attorney-client privilege, and they pointed to some extrinsic
17 evidence that they want to give me, i.e. affidavits from the
18 parties involved in those documents, the creation of those
19 documents. And then there's documents that the parties claim
20 are outside of the geographic scope that's involved in this
21 case.

22 Just for the record, as I understand it, outside of the
23 geographic scope, this case involves a claim by a Jane Doe
24 against Uber Technologies for damages sustained as a result of
25 an alleged sexual assault in the State of Texas and we are

1 looking at and the parties are trying to discover information
2 about criteria used by Uber to conduct background checks,
3 information that Uber has to determine whether or not somebody
4 should continue to be a driver, things of that nature. The
5 defendants objected saying that while what happened in Texas
6 may be relevant, and I say may because I don't think they want
7 to concede that entirely, but for purposes of summarizing the
8 argument, while what happened in Texas may be the subject of
9 the inquiry here, what happens in other countries' around the
10 world is different and it shouldn't be part of the discovery in
11 this case. And so, what one of the categories is the category
12 of documents that are related to policies and procedures that
13 Uber has that it's outside of the geographic scope is the
14 argument of the defendant's i.e. outside of the relevant area
15 of inquiry, specifically it states other countries' policies
16 and procedures, is that accurate.

17 MS. WESTER: It is, Your Honor. And I would
18 just add one thing, that today's document that we're talking
19 about outside of the geographic scope. They're actually
20 documents that are discussing a specific prior incident so a
21 specific complaint made by an Uber rider or driver but those
22 complaints and their resolution are either in a state other
23 than Texas or any country other than the United States.

24 THE COURT: Thank you for that clarification. I
25 wanted to go on the record and counsel wanted to go on the

1 report so we are on the same page with respect to any rulings
2 that the court may make today. I'm looking at these two
3 categories of documents. Counsel, anything you want to add?

4 MR. EVANS: Yes, Judge Carter. With respect
5 to, we'll call them the OSI's, other similar instances, outside
6 of Texas, they are embedded with safety presentation. And so
7 what it looks like is, we'll go through a safety presentation
8 or some risk analysis presentation, and then the whole page is
9 blanked out or redacted and I can't tell what's in it. Counsel
10 has represented to me that it might involve other similar
11 incidents of sexual assault in a different state or even in
12 England but I want to get inside the mind of the Uber to
13 understand what they're saying about these incidents and why.
14 That's why I think it's important.

15 THE COURT: Well, here's my take. If I
16 understand what you're saying, and I have not looked at it yet
17 but I want to kind of go out there and tell you what my
18 thoughts are. If it's another incident but it's couched in
19 terms of a presentation that's been done to train other
20 employees or to train people at Uber, I'm inclined to say
21 that's something that I'm going to look at and I'll look at
22 what the contents are and make a determination. It's something
23 they're using to train their employers. I think it's part of
24 the presentation material to train employees and likely
25 discoverable and what we're looking at, again, there's a

1 difference between discoverability and admissibility. I want
2 to deal with what's discoverable right now and I recognize that
3 one of the objections is the information is not likely to lead
4 to admissible evidence but at the same time, the law recognizes
5 that there is a distinction between that which is discoverable
6 and that which is admissible. So to the extent that you're
7 evidentiary objection might be 403 that it's irrelevant, that
8 it's prejudicial, things like that, we'll take that up at the
9 time of trial and we'll look at what we're going to show the
10 finder of fact. Okay, so anything else?

11 MR. EVANS: Yes, Your Honor. On the
12 attorney-client privilege issue, it might be best to go through
13 each document. We only have ten total documents to look at.
14 We narrowed it from 50 to 10.

15 THE COURT: Okay.

16 MR. EVANS: But I'll tell you, some of them I
17 have very limited insight to these but based on their privilege
18 log and the individuals identified on that certain e-mail
19 chain, none of them are lawyers and so that would be my
20 question as to how you can claim privilege over that if there's
21 not a single lawyer on the document. Where there might be a
22 lawyer on one of them, I'm not sure if there are, just having a
23 lawyer on a e-mail chain doesn't necessarily make it
24 attorney-client privilege. Beyond that, it's really hard for
25 me to comment because I just simply can't see the contents of

1 any of the e-mails. The other thing I'll say, too, is within
2 certain presentations, like, training presentation, if they
3 have a schizophrenic redaction-type approach where they will be
4 charged in a presentation that's a AC privilege in red bold at
5 the top of the chart or an exemplar, and then for whatever
6 reason that's not redacted, but the next page you'll have
7 something in there which essentially that's the same stamp but
8 it's redacted so I can't figure out why they're taking that
9 schizophrenic approach. On one hand, you can call it a waiver.
10 I'm not even going to wade into those waters. I think it's
11 better just to have the Court look at it. You'll see some of
12 these presentations where when we get into them, I don't
13 understand how they necessarily claim privilege. Let's assume
14 that it was attorney-client privilege at some point where, you
15 know, they are seeking legal advice, then you take that
16 information and you put it into a chart and you disseminated to
17 other employees for training purposes, where does it end? And
18 so, I guess, we need to be able to look at the information. If
19 the court does, maybe we can have a conversation about it then,
20 but to me, it just seems like there's this overuse of this AC
21 privilege log.

22 THE COURT: Why don't we just wade into it? Do
23 y'all have the ten documents that you would like me to look at
24 the attorney-client?

25 MS. WESTER: I do, Your Honor. May I approach?

1 THE COURT: Please.

2 (Attorney approaches bench)

3 MS. WESTER: I have two notebooks for Your
4 Honor, one, the un-redacted versions and one notebook is the
5 redacted documents and then Mr. Evans has a copy of the
6 redacted notebook so he can follow along as well. And all the
7 applicable declarations that support the attorney-client
8 privilege are also in that notebook as well, Your Honor.

9 THE COURT: Does your notebook have this Exhibit
10 A?

11 MR. FORD: It does not.

12 THE COURT: Counsel, this is interesting because
13 I have a affidavit that's executed, it looks like by a
14 DocuSign. It's not sworn to before a notary and specifically
15 it's executed it's represented in blank County of State of
16 blank. But it was executed in Cabos San Lucas County, State of
17 Mexico. That's something I haven't seen before.

18 MR. FORD: We try to keep things spicy for
19 Your Honor, no pun intended. Apologies for any un-orthodox
20 presentation, Your Honor. As you know, it can be in the form
21 of a declaration under the CPRC so we had to avail ourselves of
22 that and under the Uniform Electronic Transaction Act in Texas,
23 DocuSign actually is permissible. But as you can see, the
24 declarant, they were indisposed at the time we needed this
25 declaration.

1 THE COURT: Thank you very much.

2 MR. FORD: Yes, Your Honor.

3 MR. EVANS: Judge Carter, may I approach and
4 show you a chart that might help you?

5 THE COURT: Yes, sir.

6 (Attorney approaches bench)

7 MR. EVANS: This is a chart. This is where we
8 started. It lists everything that was originally before the
9 court. The items I have circled are part of the ten documents
10 that are at issue.

11 THE COURT: Okay.

12 MS. WESTER: Do you have another copy of that
13 chart because I don't --

14 MR. EVANS: I think I've got a copy.

15 MS. WESTER: But is it original exhibit A?

16 MR. EVANS: It is.

17 MR. FORD: Your Honor, if it pleases the Court.
18 There are about three or four documents that we appreciate the
19 legibility could be better. There was a version that we
20 received from the client. We literally this morning were able
21 to get them to send us what seems to be a more legible copy but
22 we literally received it, despite her request, this morning
23 while we were on our way over. I'm happy to tender my Ipad to
24 the Court if it would aid the Court at all.

25 THE COURT: Thank you very much. I may have

1 some follow-up on it. I don't have my readers with me or my
2 magnified glass but I appreciate what you're saying. If I need
3 to follow-up on it, I will.

4 MS. WESTER: And Judge, those four documents on
5 the front I did include a blown up version behind the first
6 page. But again, the legibility is not great in quality.

7 THE COURT: I'm happy to know it's not me.
8 Thank you. Okay. I've gone through the documents that are
9 included in the binders that you handed to me. I've got a few
10 questions based on the information that's been provided. I've
11 got three declarations and given this declaration, the Baker
12 declaration and the Freigoval declaration, F-R-E-I-G-O-V-A-L .
13 All of those declarations, none of them appear to be from a
14 lawyer. So none of the three parties that drafted or signed
15 theses declarations are actually attorneys, correct?

16 MS. WESTER: That's correct, Judge.

17 THE COURT: Okay. And so as I go through this
18 information, start with the first four exhibits, these are the
19 slides that we talked about earlier that are hard to see.
20 These are presumably a part of a presentation that's what's
21 referenced in the Freigoval declaration. I believe that -- let
22 me make sure we're talking about the right Bates label
23 documents. The first four are based on geographic scope,
24 correct?

25 MS. WESTER: Correct

1 THE COURT: And not a attorney-client
2 privilege.

3 MS. WESTER: Correct

4 THE COURT: Okay. So the first four, one, two,
5 three and four, I'm going to overrule the objection and order
6 that they be produced. Now we're taking a look at the
7 attorney-client issue and I've got Freigoval.

8 MR. FORD: Your guess is as good as mine.

9 THE COURT: And so I've got two documents behind
10 that gentlemen's declaration. I've got the Gibbens declaration
11 with two documents behind it and the Baker declaration with
12 another two tabs behind it. And so this is interesting, right,
13 because I've got two slides and these have been completely
14 withheld. These are not redacted and provided. These have
15 been completely withheld pursuant to attorney-client privilege.
16 And counsel, what they're arguing to me is that these slides,
17 based on the declaration of Mr. Friegoval, these slides were
18 created to facilitate the rendition of professional legal
19 service, mainly to obtain legal advice from Uber's inhouse
20 counsel on the proposed safety policy. The safety risk slide
21 contains advice and proposals from inhouse legal counsel to
22 other and Uber employees. That, I don't know of as I sit here
23 today because all I've got are the slides. And so we got a
24 witness that's testifying about what the contents of the slide
25 are and the purposes of this slide. I don't know. I don't

1 have any evidence other than this statement by the client that
2 what these slides were to be used for. I do see
3 attorney-client privilege confidential legal advice to counsel
4 on the actual document but, I guess, is that something that
5 y'all added after the fact?

6 MS. WESTER: It is not, Your Honor. That slide
7 was actually created with those stamps on it. And if I can
8 provide a little bit of additional context, what I'm gleaning
9 from the face of the document itself is discussing a proposed
10 change and so that would be where Uber would go to their legal
11 counsel and say, please advise us, everybody on board with that
12 change, what is your advise about that change, and that's
13 what's reflected at least in this slide that we're looking at.

14 THE COURT: And that's my question, right, is
15 because what you just said is, suppose of what they do. Some
16 people may not do it that way. They may just have people at
17 the office that work on a policy and procedure and make a
18 determination and so I'm looking for where the communication to
19 the attorney is, where are the request for advice is, where the
20 attorney's advice has been added to or included in this
21 document? Something to help me get to the answer that you're
22 arguing to the Court that is, the purpose of this was to come
23 up with a new policy and procedure and you're going to run it
24 by legal. I don't see where we've done that. I just see the
25 slide itself.

1 MS. WESTER: And Judge, I think our argument
2 is based on from the face of the document itself, under the
3 portion that says legal, and so I don't believe there's
4 additional contact that would aid the Court in that
5 determination. We're just going on the face of the document
6 and the declaration, Your Honor.

7 MR. EVANS: Are we talking about the dates
8 ending in 480?

9 THE COURT: 6724.

10 MR. FORD: The only other supplementation I
11 would offer, Your Honor, is of course, in Texas under Rule 503d
12 D as in Delta, the privilege extends to communications,
13 confidential communications were made for the purpose of
14 facilitating rendition of professional legal services when
15 those communications are and, I quote, between the clients
16 representatives or between the client and the client
17 representative and so that's often a nuance of the privileges.
18 It's tough to tease out admittedly but I would offer, as I
19 believe Ms. Wester is offering, that even though it is not
20 apparent from this document that a lawyer is copied on it, for
21 instance, the privilege under Texas law is broad enough and
22 often does encompass communications among the clients
23 representatives to the extent those communications are being
24 made to facilitate the rendition of professional legal
25 services.

1 THE COURT: Thank you very much.

2 MR. FORD: Yes, Your Honor.

3 MR. EVANS: Judge, if I could offer something on
4 this 6724. It appears to be part of a presentation called
5 Stand for Safety Executive Committee. There was a presentation
6 at some executive level that's all I can glean from that. The
7 presentation looks like it's an internal presentation updating
8 everybody on safety efforts, not necessarily like it's an
9 ongoing conversation with attorneys with Uber. Their rendition
10 of legal services.

11 THE COURT: Well, that's my question, right.
12 And so you're arguing it from the standpoint of not being able
13 to really see the documents but to the extent that you can see
14 a title or a context with other documents that have been
15 provided. I need to know what the law is and I've been given a
16 generality, you know, it's something that people working at a
17 business are doing for the purpose of ultimately receiving
18 legal advice, then the respondents, what the defendants are
19 saying is privilege. I want to come down on what the law says
20 specifically and go from there. To the extent that I've got
21 kind of work in progress documents and there's ultimately some
22 final, this is what our policy and procedure is regarding X, Y
23 and Z. I think that would be sufficient. Do y'all have that?

24 MR. EVANS: We have a number of policies that
25 have been produced that appear to reflect what their

1 deactivation criteria were in different years including 2018,
2 the year of our incident.

3 MS. WESTER: And, Your Honor, looking at this
4 slide 6724, I don't know if this particular program or policy
5 was ever actually put into place or has a final version. I can
6 tell from this slide that it's in the process and that's why
7 they're seeking legal advice. I don't know that its the final
8 version of that program.

9 THE COURT: I'm looking at some of the others
10 I'm more focused on at the moment. I'm just going to rule that
11 I think that 6724, I'll sustain the privilege objection. 8719,
12 I'm overruling the privilege objection 36.

13 MS. WESTER: And Your Honor, I can provide
14 additional context on the one ending in 420, if you'd like, as
15 well as 421, if that would be helpful.

16 THE COURT: Go ahead.

17 MS. WESTER: So Your Honor, both of these are
18 e-mail chains and to Mr. Evans' point, the e-mail at the very
19 top, the two in the front are not from legal counsel Uber. But
20 if you look down and if you look at Bates stamp Davis Uber
21 underscore PR log 000420, the very bottom of that first page,
22 you see Maureen, she is an attorney with Uber and she is the
23 one that ends up stamping this conversation as privileged. And
24 also, if you read the first sentence of her e-mail under that,
25 it's clear that she is providing legal advice and asking them

1 to keep her updated for the purposes of providing legal advice.
2 If you look to the next document which is Bates stamped Davis
3 Uber underscore PR log 00421, the top e-mail on that chain is
4 different but if you look down at the bottom, you see that same
5 e-mail from the same person and then right after that e-mail,
6 is consistent with the document ending in 420.

7 THE COURT: 420 and 421, I'm going to sustain
8 the privilege claim.

9 MR. EVANS: If I could, I want to clear the
10 air on this. I was only going off the individual identified on
11 the e-mail chain, on the privilege log that was produced, this
12 is not this lawyer that did not appear on the privilege log. I
13 did not want to misrepresent to the Court. From my
14 perspective, it was just Roger Kaiser and Catherine Gibbons.
15 This is the first time I learned there was a lawyer on that
16 chain.

17 THE COURT: I appreciate that. And frankly,
18 this happens frequently in terms of what I get asked to review
19 for privilege and it being documents from a larger business
20 that have a number of people on the chain. I usually will see
21 the to/from, the universe of people that are CC'd on it like we
22 get to in some of these other documents, but in these you have
23 to go back down further as to who was on there. But I'm going
24 to sustain privilege because I think that it's warranted based
25 on what I see and counsel taking up no issue with what you

1 said. Now, we're to the remaining 262 and 480.

2 MS. WESTER: And Your Honor, I believe 262 is
3 going to be another one of those situations where Mr. Evans is
4 unaware that there was an attorney on the chain. If you could
5 look at the fourth page of document ending in 262. Next from
6 the bottom, it talks about looping in someone named Scott.
7 Scott is an attorney with Uber. If you look at the sentence
8 before they loop in Scott, they discuss how the chain is
9 intended to give him information so that they can have a
10 discussion in person. You'll also see where they identify
11 Scott as counsel in the Safety Department.

12 THE COURT: Thank you very much. I want to ask
13 you a question about the people that are included on this
14 e-mail. One of the questions that we've had during discovery
15 has been, who are the right people to talk to about what the
16 policy and procedures are and what's your contention? One,
17 have you resolved that issue? Do you know based on the
18 information you've provided? I think that what I'm asking is,
19 if I agree that it's privileged based on the attorney being
20 included on this, you've got a number of other individuals that
21 are working over at Uber that are a part of trying to come up
22 with and formulate a policy and procedure related to the
23 subject matter that we're all here about today, not
24 withstanding the privilege aspect of it. Is it your contention
25 that the individuals identified in this e-mail chain are

1 subject to privilege as well or have you provided that
2 information to counsel?

3 MS. WESTER: Judge, I do believe that in this
4 chain e-mail they are subject to privilege because they would
5 be representative of Uber and they are providing information
6 for Scott to discuss in person later on and get legal advice
7 from. As far as the specific policy in this e-mail, give me
8 just one moment, Your Honor, if you don't mind. Your Honor, I
9 don't believe this e-mail is discussing its policy that's
10 relevant to this case. I believe it's discussing a drug and
11 alcohol policy. Okay.

12 THE COURT: Counsel, I've cut you off. I don't
13 want you to talk about what is contained in these documents.

14 MS. WESTER: Thank you, Your Honor.

15 THE COURT: Here's my take on it. I think
16 that the content, the substance of this is privileged. I think
17 that all of the people that are included in the discussion are
18 witnesses and have knowledge of relevant facts and their
19 identity should be disclosed in response to request for
20 disclosures with the statement in earnest about what their role
21 is and so if counsel wants to talk to them, counsel can go and
22 talk to them. Now, here we've got, again, it looks like
23 something that the Court is going to sustain privilege on. I
24 do believe that the identity of the parties that are involved
25 in the process should be provide in response to disclosures.

1 MS. WESTER: And Your Honor, if I could just
2 kind of go down that road a little bit further. I think it's
3 difficult for us to understand what policies would be
4 considered relevant to this case when you're talking about a
5 technology company that has obviously a different policy for
6 hundreds and if not thousands of issues. And so if it's not a
7 policy directly related to sexual assault, sexual misconduct,
8 or any other facts that we agree made the basis of this
9 lawsuit, to what extent do we need to disclose persons that
10 make policies not involved in the incident in this case?

11 THE COURT: I am going to order you to disclose
12 everybody as well. I don't want to tell you now, here's a
13 haystack and then that is going to be our one person that's on
14 point with the issues involved in this case. So, I guess, what
15 I'm suggesting is, and I think this is a good place to start,
16 right. If they're involved in the discussion of making
17 policies and procedures that relate to conduct or in this
18 instance determining whether or not a driver should be allowed
19 to continue on as a driver, I would be hopeful that you
20 wouldn't have a whole different cast of characters depending on
21 which different allegation is made. I've got some discussion
22 here about particular policy and some individuals that are part
23 of that discussion. I would presume that those same
24 individuals would be part of the discussion involving other
25 conduct. But that's something that counsel can, once

1 identified, can follow-up on either through a conference call
2 with you or y'all can agree that an individual didn't have
3 anything to do with a certain something that's of issue in this
4 case. And they can decide whether or not they want to go
5 through and conduct any additional discovery. But I want to
6 make sure that what we're not doing is saying, now that they're
7 privileged, all of the people that would have knowledge about,
8 in this instance, the standards that Uber uses to deal with the
9 sexual assault complaint and what they do following that
10 complaint, that those decision makers need to be identified so
11 that if counsel wants to go and have a follow-up discussion
12 they can. That's my thought. I mean, I would think that they
13 would be relevant, notwithstanding the fact what the Court's
14 ruling is on the actual document itself.

15 MS. WESTER: And Your Honor, I completely
16 understand the Court's position on that. I will say from
17 Uber's position, opposing counsel has had a chance to depose
18 the Head of Global Women's Safety to discuss who are the people
19 that make these policies that make these decisions. That
20 information has been made available elsewhere. It's just, I
21 can't guarantee that the people in this specific e-mail were
22 disclosed as people that made decisions related to sexual
23 assault and not sure that there is that crossover that we're
24 all kind of presuming there would be.

25 MR. FORD: And I would just supplement to

1 everything that Ms. Wester has said. Our understanding, and I
2 welcome counsel if you have a contrary view, I do think this is
3 important that we get this straight. Our understanding is that
4 you have now had, subject to your re-deposition of Mr. Kyser in
5 a matter of days, that you have had ample opportunity to depose
6 corporate reps, to depose a number of people in our safety
7 apparatus. And I'm just being honest because I don't think
8 this was initially an issue for plaintiffs and we had several
9 hearings about it and you all have deposed and now are set to
10 re-depose a corporate rep among other reps in high places,
11 officials, regarding what the policies and protocols are. I
12 just want to make sure because I'm concerned that this could
13 tilt away where, you know, obviously, we are going to whatever
14 you tell us to do, Your Honor, but if we supplement our
15 disclosures, are we talking about the scenario where we're
16 re-opening discovery and deposing a boatload of witnesses?
17 That's my only concern, Your Honor, particularly given the
18 preferential trial setting on November 6 and obviously all the
19 discovery that's transpired today. I know it seems like
20 putting you on the spot and I'm honestly not trying to.

21 MR. EVANS: I think disclosures with
22 specificity as to what the roles would do, will be helpful but
23 here's my frustration. Way back in May of 2020, Judge Carter
24 -- this is before you guys were involved -- he ordered Uber to
25 identify people in charge of safety policies and procedures and

1 Uber said, it's only Roger Kyser. That's the only person they
2 identified. And then we had to go and get on LinkedIn and
3 literally find names of people who look like good candidates to
4 depose because Uber wasn't becoming forthcoming about it. A
5 lot of these individuals we stumbled upon was because we got an
6 order from Judge Carter saying, yes, it looks like in all
7 probability they had something to do with this. And so through
8 that process there was a lot of hit and miss when we deposed
9 people to the extent that Uber's liability expert had in her
10 handwritten note that we deposed a bunch of nobodies. And it
11 was frustrating because you would hope that Uber at some point
12 would step in and say, hey, we're going to stop you from
13 spending all this time and effort. And actually by who,
14 meaning? So that's for me to say when we get these names
15 disclosed to us, we're not interested in repeating that
16 process. But if there's something that comes up and I tell
17 you, Rob, it sounds like there's someone we need to depose,
18 we'll let you know. We don't intend to drag this out. If
19 someone comes up and they've got information we might need to
20 talk to them.

21 MR. FORD: Okay. And I feel and I appreciate
22 that. I also appreciate you clarifying that we were not
23 involved during this time period. I will say based on the
24 correspondences that I have seen dating back to that time and
25 correspondences that you and I have exchanged, I do know there

1 was an attempt on our part, and I say this for your benefit and
2 for the Court's benefit as well, there was an attempt on Uber's
3 part to invite y'all on number of occasions to start with a
4 corporate rep so that you could identify which persons in our
5 safety apparatus were actually responsible for crafting and
6 managing policies related to sexual assaults like the one made
7 the basis of this case. That opportunity was never really
8 seized until much, much later down the road after Uber had to
9 try to find someone. So I hear you. And I'm sorry, Your
10 Honor, I don't want to waste Your Honor's time. I started
11 getting a little concerned when I saw how this might play out
12 given the schedule that we have. But I hear you, Your Honor.
13 We will absolutely supplement our disclosures as ordered by the
14 Court and we will do that with alacrity. That's all we can say
15 to that.

16 THE COURT: Thank you.

17 MR. FORD: Yes, Your Honor. And again, I
18 apologize for what ended up being a side bar.

19 THE COURT: So at this time, I find 262,
20 document ending in 262, I am going to sustain privilege. Now,
21 480.

22 MS. WESTER: Your Honor, my understanding that
23 480 is a PowerPoint that the main topic of which is an overview
24 of policies and procedure conducted by inhouse counsel with
25 Uber and so the information contained in these slides would

1 have been the results of legal investigation and legal overview
2 and would be a communication with the client or client
3 represented for facilitating that legal service in that they
4 are making suggestions or giving the client their findings
5 based on the review they conducted.

6 THE COURT: I'll sustain privileges as to 480.
7 Now, 480. There's a couple of different instances where I've
8 got what's represented to be presentations, right, that are
9 being done either by counsel or to counsel or to the Board of
10 Directors to enable the parties to come up with something
11 that's obviously in conjunction with counsel. If you've got
12 some exception to that let me know but as we sit here today
13 I've got their affidavits saying what the purpose of the
14 document was, and then the document itself. And so the
15 evidence that I have suggest to me that the document would be
16 subject to privilege at this time. If there's something you
17 want to bring to my attention feel free to do so and I'll take
18 a look at it. I think that's everything.

19 MR. FORD: Just one last housekeeping matter,
20 Your Honor. We have entered into a Rule 11 to pass what would
21 have been this Friday's hearing on Uber's traditional motion
22 for summary judgment and Uber's motion for leave to designate
23 an expert. We did file a note per the court staff's direction
24 requesting an off day docket at the court's indulgence. An off
25 docket day, forgive me, Your Honor, not enough coffee this

1 morning. At the Court's indulgence and subject to opposing
2 counsel's availability to have those motions heard. We would
3 very much like to have that done in September, if it pleases
4 the Court, if the Court has availability to accommodate us. We
5 know we are asking a lot and the Court has been so flexible.
6 We are here on an off docket day and that's not lost on us.

7 THE COURT: I'm happy to accommodate that
8 request. Let me take a look at what I have available. I have
9 a trial that's assigned out there right now and they're doing
10 some last minute work before we start pretrial tomorrow. As I
11 sit here right now I don't know when we're calling the jury on
12 that matter. We have some things to discuss at pretrial. That
13 case is represented to be four to seven days, the other side is
14 four to seven weeks. We're somewhere in the middle. So we've
15 got some work to do that I'm concerned about interfering.
16 We've got a dead week that week of Labor Day as well. You've
17 already got your response on summary judgment on file?

18 MR. EVANS: No, Your Honor.

19 THE COURT: Do it now. Get your response on
20 file. Go ahead and get with the clerks. Set a date.

21 THE COURT: Do you want to take up the expert
22 issue?

23 MR. FORD: Yes, just to consolidate our steps,
24 Your Honor, if it pleases the Court.

25 THE COURT: That's fine.

1 MR. FORD: And again, we do appreciate it, Your
2 Honor. We know you and your staff are very busy and we thank
3 you for accommodating us.

4 THE COURT: I'm happy to do so. I want to get
5 through this case and get everybody ready. All right. So I've
6 got a summary judgment out there. We've gotten through this
7 discovery for today. We've got a request that we allow you to
8 late designate an expert. If I do that, they're going to get a
9 deposition.

10 MR. FORD: Absolutely, yes.

11 THE COURT: That's my thought. Frankly, we're
12 still 90 days out.

13 MR. EVANS: And we have not filed a response to
14 that yet because it hasn't been set. If they late designate
15 expert, we'll call one of our rebuttal experts on the same
16 topic.

17 THE COURT: Sounds good to me.

18 MR. FORD: Obviously we have no objection to
19 that.

20 THE COURT: There we go. Listen, we're far
21 enough out that I'm kind of the mindset to say, okay, I'll
22 allow a late designation or substitution subject to of course
23 there being able to depose that individual and if they want to
24 do a rebuttal expert in response to yours, that's fair game,
25 too. That's where I am on that. But, we still have a summary

1 judgment. Have y'all gone and talk to a mediator yet?

2 THE COURT: Okay. Are those discussions
3 impasse or there's still some discussion?

4 MR. FORD: An impasse was declared, Your
5 Honor, but I think there's still talking to be done here. Take
6 that for what it's worth.

7 MR. EVANS: The case is taking an interesting
8 turn where for the first time in my career I've someone make an
9 offer of settlement under that rule that was invoked by Uber
10 and we made our own counter under that same rule. So I think
11 the parties probably want to try to get it done but --

12 THE COURT: I recognize that certain things may
13 need to happen in terms of everyone making sure that they
14 understand where they are going to be at trial before the
15 parties can appreciate, fully appreciate what's involved in the
16 mediation process. I'm happy to do any work that y'all need me
17 to do in order to try to facility everybody's understanding of
18 what the presentation at trial is going to look like so that
19 they can advise their client and sit down and see what they
20 want to do okay. I will figure a summary judgment out there
21 that might be something y'all would like to get heard. The
22 sooner y'all can do that probably the better. Just reach out
23 to the Court's staff. They may not be able to give you
24 tomorrow. They will tell me a little bit about what our next
25 couple of weeks will be.

1 MR. FORD: Maybe it's best that I probably check
2 in tomorrow or the day after tomorrow.

3 THE COURT: Yes, sir. Let me give you these
4 back. I made my rulings on the issues.

5 MR. EVANS: We have a corporate rep deposition,
6 the second one next Friday, can we have the new production
7 before that? The un-redacted.

8 MS. WESTER: Yes.

9 THE COURT: And also get over in the next ten
10 days all the supplements of disclosures to include anybody else
11 that's knowledgeable with relevant facts and specifically those
12 people that have been part of the process and that way counsel
13 can ask the corporate rep any follow-up. That may answer all
14 the questions and alleviate the need to conduct any further
15 discovery but I think he's entitled to that information.
16 Anything else that I can do for y'all today.

17 MR. FORD: No. Thank you, Your Honor.

18 MR. EVANS: No. Thank you.

19 THE COURT: Thank you.

20 (Hearing concluded)

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1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS)

3 COUNTY OF HARRIS)

4 I, Elizabeth Cordova, Deputy Court Reporter in
5 and for the 125th District Court of Harris County, State
6 of Texas, do hereby certify that the above and foregoing
7 contains a true and correct transcription of all
8 portions of evidence and other proceedings requested in
9 writing by counsel for the parties to be included in
10 this volume of the Reporter's Record in the above-styled
11 and numbered cause, all of which occurred in open court
12 or in chambers and were reported by me.

13 I further certify that this Reporter's Record of
14 the proceedings truly and correctly reflects the
15 Exhibits, if any, admitted by the respective parties.

16 I further certify that the total cost for the
17 preparation of this Reporter's Record is \$266 and was paid by
18 Mr. Robert Ford.

19 WITNESS MY OFFICIAL HAND this 1st day of September,
20 2023.

21 /s/Elizabeth Cordova
22 ELIZABETH CORDOVA, Texas CSR 9039
23 Expiration Date: 12/31/24
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